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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,551	06/07/2000	Thomas L. DiStefano III	1115-007U	8542
29973 7590 12/15/2009 CAREY, RODRIGUEZ, GREENBERG & PAUL LLP ATTN: STEVEN M. GREENBERG, ESQ. 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487				
EXAMINER				
LASTRA, DANIEL				
ART UNIT		PAPER NUMBER		
3688				
MAIL DATE		DELIVERY MODE		
12/15/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/589,551

**Applicant(s)**

DISTEFANO, THOMAS L.

**Examiner**

DANIEL LASTRA

**Art Unit**

3688

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date: \_\_\_\_\_
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 4-6 have been examined. Application 09/589,551 has a filing date 06/07/2000.

***Response to Amendment***

2. In response to BPAI decision filed 06/15/09, the Applicant filed an RCE on 09/14/09, which amended claim 4 and cancel claims 1-3 and 7-21.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear from the claims if the marketing element of the third party website is displayed in the first website or in the reciprocal site.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason (US 6,401,075) in view of Moore et al (U.S. 6,330,575) and further in view of Alberts (US 5,937,392).

As per claim 4, Mason teaches:

A method of assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website in order to market the first website at the second website upon the activation of the first website on the Internet, the method comprising:

During the design of the first website, receiving information at a user interface indicating a type of an element for marketing that is displayed at the second website, and information specifying the second website at which the element is to be displayed (see column 5, lines 45-60);

saving the information at a first database that is coupled to the user interface (see col 5, lines 30-65);

obtaining the element for marketing of the type indicated (see col 5, lines 45-65);

causing the display of the element for marketing at the second website when the first website is activated with respect to the Internet, wherein the element for marketing includes at least one banner ad concerning the first website and a link to the first website (see col 4, lines 20-40). Mason does not expressly teach during the design of the first website causing the display of the element for marketing at the second website when the first website is activated with respect to the Internet and determining whether a reciprocal site for the display of at least one marketing element of a third party website

exists in the first website being designed and creating the reciprocal site for the display of the at least one marketing element of the third party website when the reciprocal site does not yet exist in the first website being designed. However, Moore teaches a system for designing websites, where a first website is activated with respect to the Internet when said first website is posted to a hosting server (see Moore col 3, lines 20-45), as Applicant's specification page 33, lines 10-13 discloses that "posting" a website" and "activating a website" are equivalent terms. Alberts teaches a system where a plurality of advertisers selects to display banner ads in a web page and where said banner ads are displayed in rotation in said web page (see col 3, line 1 - col 4, line 45). Alberts also teaches that said banner ads includes an ad identifier that includes a uniform resource locator (URL) or a pointer to a graphical and/or textual object (see col 3, lines 37-42). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Mason's advertiser's website would cause the display of a banner ad in a second website when said advertiser's website is activated with respect to the Internet, as taught by Moore and if said advertiser's website sells advertisements' space to a plurality of advertisers, said advertiser's website activation with respect to the Internet would cause the display of a plurality of banner ads from third party websites in said advertiser's website and the creation of reciprocal sites that said banner ads would point to, as taught by Alberts in order to avoid posting banner ads in websites which would not provide any click-throughs revenues.

As per claim 5, Mason does not teach:

when the element for marketing the first website is a banner ad concerning the first website, causing the sequential display at the reciprocal site of the first website of a plurality banner ads respectively concerning a plurality of third party websites when the first website is activated with respect to the internet. However, the same rejection applied to claim 4 regarding this missing limitation is also applied to claim 5.

As per claim 6, Mason does not teach:

when the element for marketing the first website is a link to the first website, causing the display at the reciprocal site of the first website of a plurality of links to the plurality of third party websites when the first website is activated with respect to the Internet. However, the same rejection applied to claim 4 regarding this missing limitation is also applied to claim 6.

### ***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT A WEINHARDT can be reached on (571)272-6633. The official Fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/  
Primary Examiner, Art Unit 3688  
December 9, 2009